

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Michael Fiorito, for himself and on behalf of  
the Rochester Chapter of The National  
Federation of The Blind, individually and on  
behalf of all other persons similarly situated,

Case No. 24-CV-3883 (ECT/DJF)

Plaintiffs,

v.

**ORDER**

Brothers Bar and Grill, also known as Smoot  
Family Ventures LLC; and Unknown  
Insurance Company that insures the premises,

Defendants.

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Plaintiff Michael Fiorito brings this action on his own behalf, on behalf of the Rochester Chapter of The National Federation of The Blind, and on behalf of a prospective class of blind individuals who have attempted to use the website of defendant Brothers Bar and Grill. Mr. Fiorito did not pay the filing fee for this matter, instead applying for *in forma pauperis* (“IFP”) status. That IFP application is before the Court for review.

It is a close call whether Mr. Fiorito himself qualifies for IFP status. He admits he has sufficient liquid assets to pay the filing fee. (*See* ECF No. 2 at 3.) Until very recently, Mr. Fiorito earned sufficient employment income that payment of the filing fee would not be expected to be an undue hardship. (*Id.* at 2.) And though Mr. Fiorito was unemployed when he filed this action, he was at that time “[w]aiting for [a] potential employer to finalize” an offer of employment. (*Id.* at 8.)

But there is a more fundamental problem with Mr. Fiorito’s IFP application. The Complaint does not name only Mr. Fiorito himself as a defendant, but also the Rochester Chapter

of The National Federation of The Blind (with Mr. Fiorito as the purported representative of that group). Only natural persons may proceed IFP in federal court. *See Rowland v. California Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 196 (1993). Accordingly, the Rochester Chapter of The National Federation of The Blind cannot be granted IFP status. And if that organization cannot be granted IFP status, then neither can Mr. Fiorito, because “if multiple plaintiffs seek to proceed *in forma pauperis*, each plaintiff must qualify for IFP status.” *Anderson v. California*, No. 10-CV-2216 MMA (AJB), 2010 WL 4316996, at \*1 (S.D. Cal. Oct. 27, 2010).

Accordingly, Mr. Fiorito's IFP application is denied. The filing fee for this matter must be paid within 60 days of the date of this order, failing which this matter may be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

Finally, the Rochester Chapter of The National Federation of The Blind must be made aware that it cannot use Mr. Fiorito—who is not a licensed attorney—to prosecute its claims in this lawsuit. Accordingly, the Clerk of Court will be directed to provide a copy of this Order to the National Federation of the Blind of Minnesota<sup>1</sup> so that the organization is aware that it must be represented by an attorney in order to prosecute claims in this action. The Court will allow the Rochester Chapter of The National Federation of The Blind 60 days in which to retain an attorney licensed and authorized to practice in this District. If no such attorney enters a notice of appearance on behalf of the organization within 60 days, then the Rochester Chapter of The National Federation of The Blind may be dismissed without prejudice from this action for failure to prosecute.

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<sup>1</sup> This Court has been unable to procure a mailing address for the Rochester Chapter of the organization.

**ORDER**

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY ORDERED THAT:**

1. The application to proceed *in forma pauperis* of plaintiff Michael Fiorito (ECF No. 2) is **DENIED**.
2. The \$405.00 filing fee for this matter must be paid within 60 days of the date of this Order, failing which this matter may be dismissed without prejudice for failure to prosecute.
3. A licensed attorney who is authorized to practice law in this District must enter a notice of appearance on behalf of plaintiff Rochester Chapter of The National Federation of The Blind within 60 days of the date of this order, failing which the Rochester Chapter of The National Federation of The Blind may be dismissed from this action for failure to prosecute.
4. The Clerk of Court is directed to send a copy of this Order to the following:

National Federation of the Blind of Minnesota  
2801 Hennepin Avenue South #126  
Minneapolis, MN 55408

Dated: October 24, 2024

s/ Dulce J. Foster

Dulce J. Foster  
United States Magistrate Judge